

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 2215.05
COMPLAINT INVESTIGATOR: Brian Simkins
DATE OF COMPLAINT: February 11, 2005
DATE OF REPORT: March 14, 2005
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: April 25, 2005

COMPLAINT ISSUES:

Whether the Anderson Community School Corporation violated:

511 IAC 7-25-2 by failing to implement written child find identification procedures that ensure the location, identification, and evaluation of all students that are in need of special education and related services regardless of the severity of their disabilities.

511 IAC 7-29-8 by failing to follow the required procedures related to the protections provided for in Article 7 for a student who has not been determined eligible for special education and related services and who has engaged in behavior that violated school rules and codes of conduct when the School had knowledge, pursuant to 511 IAC 7-29-8(b), that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred.¹

FINDINGS OF FACT:

1. The Student has been formally referred for an educational evaluation to determine the nature and extent of a suspected disability, but not yet determined eligible for special education and related services under Article 7 at the time this complaint was filed.
2. The School's child find procedures encompass students for whom an educational evaluation has been requested either by the parent or the school. The Student was referred for an initial education evaluation in June 2001. The Student was evaluated on August 29, 2001. A case conference committee (CCC) convened on October 18, 2001, to review the results of the evaluation. The CCC agreed that the Student was not eligible for special education and related services.
3. The Complainant contacted the Director of Special Education by telephone on September 13, 2004, to discuss the Student's behavior. The Director of Special Education sent to the Complainant a follow-up letter dated September 15, 2004, indicating what was discussed and the recommendations made. By late September 2004, the Complainant contacted the School and had a Section 504 conference scheduled. The Section 504 conference convened on October 4, 2004. The conference did not find the Student eligible for Section 504.
4. The Student was suspended on October 12, 2004, for 10 days pending expulsion. On October 21, 2004, a meeting was held at the School to consider the School's request that the Student be expelled.

¹ Although the complaint investigation originally included an issue involving an alleged violation of 511 IAC 7-25-3, this issue was subsequently determined not to be relevant to the facts herein and has been replaced with 511 IAC 7-29-8.

for the remainder of the first and second semesters of the 2004-2005 school year. At this meeting the Expulsion Examiner found the School's request appropriate, but reduced the expulsion to one semester and allowed for the Student to apply to the local high school alternative program for the second semester at the Complainant's request. At the time this complaint was filed the Student was not enrolled in the alternative program.

5. The Complainant alleges that several verbal requests for an additional evaluation were made to the School some time in mid-October of 2004 (right about the time the Student was suspended). No documentation is available to indicate whether certified school personnel received a verbal request for an educational evaluation from the Complainant. The Special Education District Office received a request for an educational evaluation on November 23, 2004, from the Complainant. The Special Education District Office did not become aware of the Student's expulsion until December 14, 2004. The evaluation was completed on January 20, 2005. The Student's CCC meeting was held on March 2, 2005. More than 20 instructional days elapsed from the time the School received written permission to evaluate the Student to when the CCC convened to discuss the evaluation.

CONCLUSIONS:

1. Findings of Fact #2 and #3 indicate that the School did not fail to implement written child find procedures. Finding of Fact #2 shows that the Student was evaluated for special education in 2001. The School's child find procedures encompass students for whom an educational evaluation has been requested either by the parent or the school. Finding of Fact #3 shows that the Student was considered for Section 504 on October 4, 2004. Finding of Fact #5 indicates that the Student was again evaluated for special education and related services on January 20, 2005, with the CCC held on March 2, 2005. Therefore, a violation of 511 IAC 7-25-2 is not found.
2. Findings of Fact #4 and #5 indicate that the School failed to follow procedures related to the protections provided for in Article 7 for a student who has not been determined eligible for special education and related services. After the Student had been expelled on October 21, 2004, the School did not evaluate the Student and convene the CCC until well after 20 instructional days had elapsed from receipt of the parent's written consent (November 23, 2004) for evaluation of a student expelled from school. Therefore, a violation of 511 IAC 7-29-8 is found for failing to conduct the Student's evaluation in an expedited manner.

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

Anderson Community Schools shall:

1. Submit to the Division of Exceptional Learners, no later than April 22, 2005, a copy of the Student's CCC Report from the case conference held on March 2, 2005, to determine whether the Student is eligible for special education. If the Student was found eligible for special education and related services, the Student's CCC shall reconvene to discuss whether and to what extent compensatory services shall be provided. A copy of the CCC Report and IEP shall also be submitted to the Division no later than April 22, 2005.
2. Send a written memorandum to all relevant school administrators and special education personnel describing the procedural requirements of 511 IAC 7-29-8. A copy of the memorandum and a list of all who receive it shall be submitted to the Division no later than April 22, 2005.

3. Develop or review/revise policies and procedures related to situations when a referral is made for an initial evaluation of a student during the time period in which the student is subjected to suspension, expulsion, or placement in an interim alternative educational setting. The policies and procedures must be clear that under these circumstances the evaluation must be conducted in an expedited manner. It shall also be made clear that until the expedited evaluation is completed, the student remains in the educational placement determined by school authorities, which may include suspension or expulsion without educational services. A copy of the policy and procedures shall be sent to all relevant school administrators and special education personnel. Submit to the Division a copy of the policy and procedures and a list of all personnel who received it no later than April 22, 2005.